Attorney Docket No. <u>KIRON 100 CONT</u>

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of   )

     Kenneth Kiron and   )

     Kevin S. Bander   )

Serial No.:   )

Filed: HEREWITH   )

Examiner:)

Art Unit:)

For: OPEN END MUTUAL FUND   )

        SECURITIZATION PROCESS   )

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Date of Deposit _August 27, 1998_

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for Patents, Washington, D.C. 20231.

Name _KRISTINE CALLAHAN_
         (typed or printed)

Signature _Kristine Callahan_

Assistant Commissioner for Patents
Washington, D.C.   20231

PRELIMINARY AMENDMENT

Please amend the above-identified application as follows:

<u>IN SPECIFICATION</u>:

On page 1, line 10 of the substitute specification insert --

CROSS REFERENCE TO RELATED APPLICATION

This application is a continuation of application serial number 08/542,431, filed October 12, 1995.--

<u>IN THE CLAIMS</u>:

Cancel Claim 2.

Please add the following new Claims 3-18.

3 (New). A data processing system for administering a financial product having a known number of shares over a predetermined period of time, which financial product is traded as a security the price of which is determined on the basis of information about one or more securities, comprising:

a) a first computer processor means for selecting from said one or more securities a selected portfolio of securities, the risk/return performance of which over a predetermined period of time is superior to a predefined benchmark performance;

b) electronic data entry means for receiving information about each of said one or more securities;

c) a second computer processor means responsive to the electronic data entry means for determining the price of the financial product on the basis of information about securities in the selected portfolio and said fixed number of shares of the financial product; and

d) output means for outputting an indication of the determined price of the financial product in humanly readable format.

4 (New). The data processing system of Claim 3, wherein at least one of said one or more securities is a mutual fund.

5 (New). The data processing system of Claim 3 further comprising means for storing information about each of said one or

more securities.

6 (New). The data processing system of Claim 3 further comprising means for evaluating the performance of the financial product on the basis of comparing the risk/return performance of the financial product over a predetermined period of time to the predefined benchmark performance, and for providing the output of said means for evaluating .to said first computer processor means.

7 (New). The data processing system of Claim 6 further comprising a third computer processor means for computing derivative values on the basis of the determined price of the financial product, said derivative values defining a derivative financial product.

8 (New). An electronic data processing method for administering a financial product having a known number of shares over a predetermined period of time, which financial product is traded as a security the price of which is determined on the basis of information about one or more securities comprising the steps of:

a) directing a computer processor to select from said one or more securities a selected portfolio of securities the risk/return performance of which over a predetermined period of time is superior to a predefined benchmark performance;

b) receiving information on each of said one or more

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securities in an electronic data format;

c)   storing at least the received information on each security in the selected portfolio in a computer memory;

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d)   electronically processing said stored information to determine the price of the financial product; and

e)   outputting an indication of the determined price of the financial product in humanly readable format.

9 (New). The electronic data processing method of Claim 8 wherein at least one of said one or more securities is a mutual fund.

10 (New). The electronic data processing method of Claim 8 further comprising the step of evaluating the performance of the financial instrument on the basis of comparing the risk/return performance of the financial instrument over a predetermined period of time to a predefined benchmark performance.

11 (New). The electronic data processing method of Claim 10 further comprising the step of repeating steps a) to d) and using the results in said step of evaluating.

12 (New). The electronic data processing method of Claim 8, wherein the step of directing a computer processor to select comprises the steps of:

f)   providing a database of information on securities

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5   available for trading;

g)   electronically processing information in said provided database to identify securities the asset size of which is above a predetermined threshold; and

h)   electronically searching the identified securities

10   to select a subset of N securities, the risk/return performance of which is superior to the risk/return performance of all identified securities.

13 (New). The electronic data processing method of Claim 12 further comprising the step of separating securities in the database into predefined investment style categories.

14 (New). The electronic data processing method of Claim 8 further comprising the step of computing derivative values on the basis of the determined price of the financial product, said derivative values defining a derivative financial product.

15 (New). An electronic data processing method for administering a closed end financial product, which financial product is traded as a security the price of which is determined on the basis of information about securities in an existing capital

5   market comprising the steps of:

a)   directing a computer processor to select form said securities in the capital market a selected portfolio of securities the risk/return performance of which over a

predetermined period of time is superior to a predefined

10   benchmark performance associated with the capital market;

b)   receiving information on each security of the capital market in an electronic data format;

c)   storing at least the received information on each security in the selected portfolio in a computer memory;

15   d)   electronically processing said stored information to determine the price of the financial product; and

e)   outputting an indication of the determined price of the financial product in humanly readable format.

16 (New). The electronic data processing method of Claim 15 wherein at least one of said one or more securities is a mutual fund.

17 (New). The electronic data processing method of Claim 15 further comprising the step of evaluating the performance of the closed end financial product on the basis of comparing the risk/return performance of the financial product over a

5   predetermined period of time to a predefined benchmark performance of the capital market.
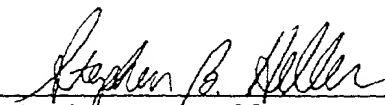
18 (New). The electronic data processing method of Claim 15 further comprising the steps of computing derivative values on the basis of the determined price of the financial product, said derivative values defining a derivative financial product.
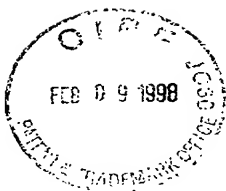
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REMARKS

This preliminary amendment is being submitted in connection with a continuation application. Claims 3-18 submitted in this Preliminary Amendment correspond to Claims 3-13 and 16-20, which were cancelled without prejudice to further prosecution in the parent application pursuant to an Amendment filed by mail on February 5, 1998. In this Preliminary Amendment, the various §112 and §101 rejections raised·in an Office Action dated October 2, 1997, are addressed.

Also accompanying this preliminary amendment is a copy of a substitute specification and drawings filed in connection with the parent application pursuant to a request by the examiner in the October 2, 1997 Office Action. While the revisions to the specification have been substantial, applicants believe that no new matter has been added to the specification. Substitute drawings, in which the figures have been relabeled and the individual elements renumbered, are also enclosed.

Respectfully submitted,

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#13

-PATENT

Attorney Docket No. <u>KIRON 100</u>

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of)
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    Kenneth Kiron and)
    Kevin S. Bander)
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Serial No.:   08/542,431)
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Filed: October 12, 1995)
)
Examiner: Stephen R. Tkacs)
)
Art Unit: 2411)
)
For: OPEN END MUTUAL FUND)
       SECURITIZATION PROCESS)

Assistant Commissioner for Patents
Washington, D.C. 20231

AMENDMENT

Please amend the above-identified as follows:

IN THE SPECIFICATION:

Please substitute the accompanying specification for that filed on October 12, 1995.

IN THE CLAIMS:

Please cancel Claims 3-13 and 16-20 without prejudice.

Please amend Claim 14 as follows:

14. (Amended) <u>An electronic data processing method for</u> <u>administering a financial product having a fixed number of shares</u> <u>over a predetermined period of time, so that the financial product</u>

can be traded as a security, the price of which can be determined on the basis of information about one or more securities, comprising the steps of:

a) directing a computer processor to select from said one or more securities a selected portfolio of securities, the risk/return performance of which over a predetermined period of time meets a predefined benchmark performance, including:

i) providing a database of information on securities available for trading;

ii) electronically processing information in said provided database to identify securities, the asset size of which is above a predetermined threshold; and

iii) electronically searching the identified securities to select a subset of N securities, the risk/return performance of which is superior to the risk/return performance of all identified securities;

b) receiving information on each of said one or more securities in an electronic data format;

c) storing at least the received information on each security in the selected portfolio in a computer memory;

d) electronically processing said stored information to determine [the electronic data processing method of Claim 12 wherein] the price of the financial product [is determined] on the basis of a user-defined method of weighing the select subset of N securities [.]; and

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e) outputting an indication of the determined price of the financial product in humanly readable format.

Please add the following new Claims 21-28:

21. An electronic data processing method for administering a financial product having a fixed number of shares over a predetermined period of time, so that the financial product can be traded as a security the price of which can be determined on the basis of information about one or more securities, comprising the steps of:

a) directing a computer processor to select from said one or more securities a selected portfolio of securities based upon a particular performance criteria for the securities so selected which meets a predefined benchmark performance, including:

i) providing a database of information on securities available for trading;

ii) electronically processing information in said provided database to identify securities, the asset size of which is above a predetermined threshold; and

iii) electronically searching the identified securities to select a subset of N securities, the performance criteria of which is superior to the performance criteria of all identified securities;

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b) receiving information on each of said one or more securities in an electronic data format;

c) storing at least the received information on each security in the selected portfolio in a computer memory;

d) electronically processing said stored information to determine the price of the financial product on the basis of a user-defined method of weighing the select subset of N securities; and

e) outputting an indication of the determined price of the financial product in humanly readable format.

22. (new) The electronic data processing method of Claim 21 wherein the particular performance criteria for selecting from said one or more securities said selected portfolio is a selected one or more of the risk/return performance; the total net assets as of a set time; the price at which said one or more securities is trading relative to net asset value; and a preferred statistical relationship over time.

23. (new) The electronic data processing method of Claim 22 wherein at least one of said one or more securities is a mutual fund.

24. (new) The electronic data processing method of Claim 21 further comprising the step of evaluating the performance of the financial instrument on the basis of comparing the risk/return

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performance of the financial instrument over a predetermined period of time to a predefined benchmark performance.

25. (new) The electronic data processing method of Claim 24 further comprising the step of repeating steps a) to d) and using the results in said step of evaluating.

26. (new) The electronic data processing method of Claim 22 further comprising the step of separating securities in the database provided in step a) into predefined investment style categories.

27. (new) The electronic data processing method of Claim 21 wherein the price of the financial instrument is determined on the basis of capitalization weighing of the select subset of N securities.

28. The electronic data processing method of Claim 22 further comprising the step of computing derivative values on the basis of the determined price of the financial product, said derivative values defining a derivative financial product.

REMARKS

We are in receipt of the Office Action dated October 2, 1997, and the above amendments and following remarks are made in light thereof.

<u>e)</u>   <u>outputting an indication of the determined price of</u>
<u>the financial product in humanly readable format.</u>

Please add the following new Claims 21-28:

21.   An electronic data processing method for administering a financial product having a fixed number of shares over a predetermined period of time, so that the financial product can be traded as a security the price of which can be determined on the basis of information about one or more securities, comprising the steps of:

a)   directing a computer processor to select from said one or more securities a selected portfolio of securities based upon a particular performance criteria for the securities so selected which meets a predefined benchmark performance, including:

i)   providing a database of information on securities available for trading;

ii)   electronically processing information in said provided database to identify securities, the asset size of which is above a predetermined threshold; and

iii) electronically searching the identified securities to select a subset of N securities, the performance criteria of which is superior to the performance criteria of all identified securities;

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b)   receiving information on each of said one or more securities in an electronic data format;

c)   storing at least the received information on each security in the selected portfolio in a computer memory;

d)   electronically processing said stored information to determine the price of the financial product on the basis of a user-defined method of weighing the select subset of N securities; and

e)   outputting an indication of the determined price of the financial product in humanly readable format.

22. (new) The electronic data processing method of Claim 21 wherein the particular performance criteria for selecting from said one or more securities said selected portfolio is a selected one or more of the risk/return performance; the total net assets as of a set time; the price at which said one or more securities is trading relative to net asset value; and a preferred statistical relationship over time.

23. (new) The electronic data processing method of Claim 22 wherein at least one of said one or more securities is a mutual fund.

24. (new) The electronic data processing method of Claim 21 further comprising the step of evaluating the performance of the financial instrument on the basis of comparing the risk/return

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performance of the financial instrument over a predetermined period of time to a predefined benchmark performance.

25. (new) The electronic data processing method of Claim 24 further comprising the step of repeating steps a) to d) and using the results in said step of evaluating.

26. (new) The electronic data processing method of Claim 22 further comprising the step of separating securities in the database provided in step a) into predefined investment style categories.

27. (new) The electronic data processing method of Claim 21 wherein the price of the financial instrument is determined on the basis of capitalization weighing of the select subset of N securities.

28. The electronic data processing method of Claim 22 further comprising the step of computing derivative values on the basis of the determined price of the financial product, said derivative values defining a derivative financial product.

REMARKS

We are in receipt of the Office Action dated October 2, 1997, and the above amendments and following remarks are made in light thereof.

In the Office Action, the Examiner noted numerous deficiencies in the specification and requested that new specification papers be filed. A substitute specification accompanies this Amendment which is believed to address all of the issues raised by the Examiner. While the revisions have been substantial, applicants believe that no new matter has been added to the specification. Substitute drawings, relabeling the figures and the individual elements pursuant to the Examiner's request, are also enclosed.

In the Office Action, Claims 3-13 and 16-20 were rejected under 35 USC 103. Claims 3-7 were also rejected under 35 USC 101, and Claims 13 and 19 were rejected under 35 USC 112.

The Examiner has indicated that Claims 14 and 15 contain allowable subject matter, and that Claim 14 would be allowable if rewritten in independent form. Accordingly, by the above Amendment, Claims 3-13 and 16-20 have been cancelled without prejudice to further prosecution, and Claim 14 has been amended to include the limitations of both Claims 8 and 12, from which it depends. Accordingly, it is believed that Claims 14 and 15 are now in proper condition for allowance.

By the Amendment, applicant also adds Claims 21-28. Claim 21 is similar to Claim 14, as amended, except that the criteria for selection of the securities of the portfolio is not limited to the risk/return performance in step a), but includes other criteria. In all other respects, it is identical to amended Claim 14, and is believed to be allowable for the same reasons as Claim 14. Claims

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22-28 add further limitations to Claim 21, and are also believed to be allowable for at least the same reason as Claim 21.

In order to comply with the duty of disclosure, applicant is also submitting separately a declaration of Kenneth Kiron, one of the inventors for this application, relative to activities occurring more than one year prior to the filing date of this application.

It is now believed that this application is in proper condition for allowance. Accordingly, reexamination and allowance is earnestly requested.

Respectfully submitted,

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Patent Application of

Kenneth Kiron

for

OPEN END MUTUAL FUND SECURITIZATION PROCESS

BACKGROUND OF THE INVENTION

1. Field of the Invention

A new financial process which securitizes open end mutual funds facilitating intra-day trading of the funds and linked derivative securities.

2. Description of the Prior Art

There are currently over 7,000 open end mutual funds registered with the Securities and Exchange Commission. None of these open end mutual funds or any index of open end mutual funds, or any linked derivatives are traded on a National Securities Exchange. The reason for this phenomenon lies in the way that open end mutual funds sell their shares, and subsequently buy back their shares from the public.

Open end funds are required by law to sell their shares at the net asset value (N.A.V.), which represents the total assets owned by the fund divided by the number of shares outstanding, plus a sales charge (also known as a sales load). When buying back their shares, open end funds must, by law, buy back their shares at their funds N.A.V.

Because many mutual funds make hundreds (if not thousands) of trades during the day, purchasing and selling a wide range of financial securities, some of which are difficult to value, it is time consuming, tedious, expensive and otherwise difficult to determine an exact N.A.V. during the day. Thus, over 99% of all open end funds allow investors to purchase and sell their funds only at the of the day. The remaining 1% of open end funds, commonly known as sector funds, calculate their N.A.V. every hour, allowing a more frequent ability to buy or sell their shares. In either case, however, the investor does not know what price will be paid for the open end fund shares until after the order has been placed, and the fund has calculated its N.A.V.

Recently, mutual fund portfolio's have developed a new type of fund called an open end fund of funds. A fund of funds is an open end fund that invests in other open end mutual funds. But like all the other open end funds created in the past, they can only be bought and sold at the end of day. Another new product developed is called the SPDR, which is short for Standard and Poors Depository Receipt. This security, which is traded on the American Stock Exchange, represents a fractional share of a basket of stocks known as the Standard and Poors 500 index (S&P500). While many mutual funds invest in the S&P500, the SPRD is not a mutual fund; it is a basket of stocks set up as unit investment trust, where the total amount of shares outstanding fluctuates daily.

In 1992, a large investment banking house created and became the market maker for a basket of stocks which attempted to replicate the performance of a few select open end sector funds, a basket that was traded intra-day on the Over the Counter Market (OTC). Unfortunately, because the net asset value of the open end sector funds was unknown during the 59 minutes of each hour that the basket was traded, the spread between the price that the firm was willing to buy the funds and sell the funds for was large. Further, the correlation between the performance of the basket of stocks to the performance of the open end sector funds was neither reliable or consistent. This problem existed because the open end fund managers were constantly buying and selling securities during the day, and the investment banking house did not know exactly which stocks the open end funds held.

Another recent development within the mutual fund industry is a service that allows investors to buy and sell open end funds during the day. The Jack White & Co., a regional brokerage firm, maintains a screen based computer system which provides a private market place for investors to buy and sell a small number (less than six percent) of all open end mutual funds at a price other than net asset value, provided buyer and seller can agree on a price. This service has failed to generate significant trading volume, however, because only the public can buy or sell fund shares. Institutional investors, pension funds, portfolio managers, and other professional investors, which traditionally represent 70 to 80% of trading volume, are prevented by law from buying or selling open end mutual funds at a price other than N.A.V. The Jack White program also allows short selling, but shares must be "found" which can take days, weeks, or months to complete the transaction. As a result of these restrictions, it is very difficult, if not impossible, for either the public or the professional investor to purchase or sell open end mutual funds during the day.

Because of the lack of liquidity and the legal obstacles involved in trading open end funds at prices other than N.A.V., up to now those skilled in developing new products for stock exchanges thought that there was no workable way to trade open end funds, an index of open end funds or linked derivative securities. The obstacles appeared insolvable.

The invention's open end fund securitization process will allow for the first time ; (a) intra-day trading of an unlimited number of mutual fund indexes comprised of open end funds; (b) intra-day trading of an unlimited number of open end mutual funds with a greater degree of liquidity; (c) intra-day trading of derivative securities linked to open end funds and indexes of open end funds.

All of the open end funds and products available suffer a number of disadvantages:

A)   Open end funds cannot sell or buy back their shares at a price other than N.A.V. (plus sales load, if any).

B)   Open end funds are unable to let their customers know what price they will receive when they place their order.

C)   Open end funds are not traded on an exchange so investors cannot leverage their investments through the trading of derivative securities.

D)   Open end funds do not allow investors to place orders including: good till cancelled, open, market, limit, stop loss, stop limit which would allow an investor to purchase or sell shares at a

specific investment criteria. This criteria may include a subgroup including the fund investment objective or the sector weightings of its portfolio. Currently, the major fund investment objective subgroups include Aggressive Growth, Growth and Income, Growth, Income, Bond, Sector, Asset Allocation, Specialty, Equity Income, Europe Stock, Foreign Stock, Government Bond, Hybrid Income, Small Company, World Stock and World Bond.

Figure 1e is: a computer program algorithm which searches and identifies all the funds where the statistical performance is greater than the aggregate subgroup over time periods (t) and puts these funds into a new database where these funds are store in a new memory location. The performance of a fund can be measured in many ways. It could be based upon total return, load adjusted return, unadjusted load return, or a return with dividends reinvested. Once the specified performance criteria has been selected, the computer can average all of the funds in that subgroup before retrieving those funds that have above average returns. All funds, for example that have returns in the 49.99 % or better would be selected as being above the "average" subgroup return. These funds would then be stored in a new memory location, to be analyzed at a later time.

Figure 1f is: a computer algorithm instructing the computer to search and retrieve all funds where the risk is smaller than the aggregate subgroup over time periods (t) and store these funds into a new database. Funds, for example that have a smaller risk profile than 50 %(the exact average) of the subgroup would be selected as beating the "average" subgroup return. These funds would then be stored in a new memory location, to be analyzed at a later time.

Figure 1g is: a computer algorithm instructing the computer to combine the funds identified through Fig. 1e and Fig. 1f to create a new group of open end mutual funds that have the lowest combined risk to return ratio over time periods (t) and puts these funds into a new database where these funds are stored in a new memory location. Generally, this type of function is called a Relationship Search routine because it allows for linking together user defined criteria to produce one result. It is a very powerful tool for linking large amounts of information together.

Figure 1h is: the number of funds that the index will contain is chosen. This number could range from 1 to the number of funds in the database. Depending upon the investment objective or how much money is available to invest in the index, this number will fluctuate.

Figure 1i is: the index calculation method is selected. An index generally is calculated one of three ways; Equally priced, meaning all of the prices are added up and divided by the total number of securities; Capitalization Weighted, which is based upon the amount of price of the security times the number of shares outstanding; geometrically weighted, which involves a more complicated averaging of share prices. The index value can dramatically shift depending upon what weighting is used.

Figure 1j is: a formula sequentially analyzes each risk/reward ratio of each permutation of funds selected by the computer in 1k.

Figure 1k is: a computer algorithm directing the general data processor to eliminate the large

risk/reward combinations found in "database index" using the formula in Figure 1j sequentially storing in memory the smallest risk/reward combinations stopping only when the smallest risk/reward ratio is found, which results in the selection of the final index. When all of the funds with superior returns have been identified and stored, and all the funds with lower than average risk have been identified and stored, the computer can then match up all of the different combinations of funds to determine which group contains the optimally lowest risk/highest return ratio. This ratio can be calculated over multiple time periods to provide for example, the lowest ratio over 1,3,5, and 10 years. In the final group of funds, the number selected by the user in Figure 1h will determine how many funds the index ultimately will contain.

Figure 1L is: a computer algorithm prints out a graph of the combined funds over time periods (t) showing their combined statistical performance based upon the calculation method selected in Figure 1i . The computer is instructed to return to Figure 1a so the program may repeat itself.

Figure 2

Figure 2a is the group of open end mutual funds selected by Figure 1. These funds own financial securities including stock securities (box 1), bonds and money market instruments (box 2) and or hybrid, illiquid securities (box 3). The N.A.V. is calculated by the open end funds at the end of the day and disseminated to the closed end fund of funds..

Figure 2b is the closed end fund of funds which synthetically replicates the performance of those open end funds contained within Figure 2a. By investing all available assets in Figure 2a, the closed end fund of funds statistical performance correlates strongly and consistently with the open end funds located in Figure 2a A computerized accounting and reporting system, located within the closed end fund of funds, receives overall position reports of changes in fund share ownership through an electronic data link with the Exchange clearing corporation computer located in Figure 2e. Upon receipt of this information, the accounting and reporting system generates information regarding tax liabilities, financial reports and other relevant documentation to shareholders, government agencies and other relevant parties.

Figure 2c is an electronic data link between a National Securities Exchange computer and the closed end fund of funds. The closed end fund of funds calculates its net asset value and disseminates that information to the N.S.E. on a daily basis. The N.S.E. then publishes that information to market participants including broker/dealers and institutional investors (box 4), market makers (Box 5), brokerage firms (Box 6) and public investors (Box 7) who then buy and sell the synthetic fund shares intra-day at **any** mutually agreed upon price (which is used by market participants to derive the price of linked derivative securities). Linked derivative security valuations on the closed end fund of funds are generated in Figure 2f, based upon the market prices generated through real-time trading of the relevant closed end fund of funds by market participants located in Box 4, Box 5, Box 6, Box 7.

Figure 2d is the electronic data link between the N.S.E. clearing computer, which keeps track of the exchange trades that occur during the day, and the closed end synthetic fund.

Figure 2e is the N.S.E. clearing computer electronically calculating the overall positions of shareholders at the end of the day and then transferring all shareholder information to the closed end fund.

Figure 2f is the N.S.E. computer calculating an index of various closed end fund of funds traded. The valuation of the index and linked derivative securities is based upon the market prices generated through real-time trading of the relevant closed end fund of funds by market participants located in Box 4, Box 5, Box 6, Box 7.

THEORY OF OPERATION

While the inventor believes that an index of open end mutual funds comprised of those funds that have the largest return on investment and the lowest risk combination may outperform those funds that, in contrast, have demonstrated lower returns and higher risk, it must be noted that past performance does not guarantee similar performance in the future.
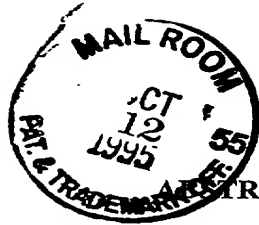
Conclusions, Ramifications and Scope of Invention

Thus, the reader will see that the index of mutual funds described herein provides a means for identifying superior historical performance within each subgroup obtainable through a screening process which minimizes the selection of high risk/low return open end mutual funds and maximizes the selection of those funds with low risk/high return statistical data. The hope is that by identifying and investing within an index of funds that have demonstrated superior risk/return ratios within a particular sector, these funds will continue to do produce superior returns with lower risk in the future than their peers.

The creation of a separate security, the preferred embodiment being a "closed end fund of funds", provides the means for investing intra-day in the desired open end funds, and enabling market participants to derive a real-time valuation for linked derivative securities.

While my above description contains many specifications, these should not be construed as limitations on the scope of the invention, but rather as an exemplification of one preferred embodiment thereof. Many other variations are possible. For example, instead of creating a closed end fund of funds, a unit investment trust could be created to replicate the performance of an open end fund or group of funds. While this security could have large swings in its capitalization level, it never-the-less may be able to replicate the performance of an open end fund or group of funds, and act as a hedge for listed derivative securities.

In addition, an index could be created based upon such strict requirements that the index could be limited to just one fund. Another index variation might be one that selects only those funds that beat an external index such as the S&P500 or Dow Jones Industrial Average. In addition, an index of securitized funds, as well as linked derivative securities including puts and calls, futures, caps and floors, total return swaps, collars, warrants, equity swaps, swaptions, knock-out options and variations thereof could be traded through the Over the Counter Market, which is located off the exchange floor. Accordingly, the scope of the invention should be determined not by the embodiments illustrated, but by the appended claims and their legal equivalents.

ABSTRACT OF THE DISCLOSURE

OPEN END MUTUAL FUND SECURITIZATION PROCESS

A process that makes possible the trading of open end mutual funds and linked derivative securities on or off the floor of a National Securities Exchange. The targeted individual open end mutual fund or group of open end mutual funds, selected through a screening process (Fig. 1) is securitized through the creation of a new, separate security. The preferred embodiment for this new security is a "closed end fund of funds" (Fig. 2) and linked derivative securities, which synthetically replicate the statistical relationship of the defined individual or group of open end mutual funds. The maintenance of financial records for the new security is maintained by electronically storing dividend, capital gains and income received from the open end funds which have been invested in, and calculating pro-forma financial statements to disseminate to shareholders and all relevant parties.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Continuation Patent Application Of:) Prior Application:
Kenneth Kiron and Kevin S. Bander) Application No. 09/579,801
) Filed: May 26, 2000
Mailed: April 20, 2001) Art Unit: 2761
) Examiner: Not Assigned
For: Open End Mutual Fund Securitization Process) Present Application:
) Examiner: Not Assigned
) Art Unit: Not Assigned

Box Patent Application
Fee
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Washington, D.C. 20231

<u>PRELIMINARY AMENDMENT</u>

Dear Sir:

The above-identified Application is a continuation of co-pending prior U.S. Application No. 09/579,801, which is a continuation of U.S. Application No. 09/140,868 filed August 27, 1998, now U.S. Patent No. 6,088,685, which is a continuation of U.S. Application No. 08/542,431 filed October 12, 1995 now U.S. Patent No. 5,806,048. Before examination, please amend the instant Application as follows:

<u>In the Specification:</u>

On page 1, line 5 (of the Substitute Specification), please insert

- - This Application is a divisional of co-pending U.S. Application No. 09/579,801 filed May 26, 2000, which is a continuation of U.S. Application No. 09/140,868 filed August 27, 1998, now U.S. Patent No. 6,088,685, which is a divisional of U.S. Application No. 08/542,431 filed October 12, 1995 now U.S. Patent No. 5,806,048.- -.

<u>In the Claims:</u>

Please cancel Claims 75-89 without prejudice.

Please replace claim 53 with the following corresponding amended claim:

53.   (Amended) A method comprising the steps of:

identifying securities within a substantially similar industry;

separating the securities into a group satisfying market capitalization criteria;

creating a unit investment trust having a number of outstanding shares and a portfolio of securities within the group;

providing a weighting of the securities comprising the portfolio;

changing the securities comprising the portfolio in response to a change in the identified securities;

trading the outstanding shares on an exchange at a real time determined price related to the securities comprising the portfolio; and

outputting an indication of the real time determined price in a humanly readable format.

Please add the following claims:

--90.   The method of claim 53 further comprising the step of listing the outstanding shares on an exchange.

91.   The method of claim 53 further comprising the step of listing on an exchange a derivative having a price related to the real time determined price.

92   The method of claim 53 further comprising the step of calculating overall positions of shareholders of the outstanding shares.

93.   The method of claim 53 further comprising the step of electronically trading the outstanding shares.

94.   The method of claim 53 wherein the group satisfies price/earnings ratio criteria.

95.   A method comprising the steps of:

listing outstanding shares representing ownership of a unit investment trust having a portfolio comprising of securities within a substantially similar industry and satisfying market capitalization criteria, the securities within the portfolio being weighted;

providing an exchange for trading the outstanding shares at a price related to the price of the securities within the portfolio; and

displaying in real time the price that the outstanding shares were traded on the exchange.

96.   The method of claim 95 further comprising the step of listing a derivative product on an exchange and having a price related to the price of the outstanding shares.

97.   The method of claim 95 further comprising the step of providing the weighting of the securities within the portfolio.

98.   A method comprising the steps of:

buying on an exchange outstanding shares representing ownership of a unit investment trust having a portfolio comprising of securities within a substantially similar industry and satisfying market capitalization criteria, the securities within the portfolio being weighted;

selling on the exchange the outstanding shares at a price related to the price of the securities within the portfolio; and

displaying in real time the price that the outstanding shares were traded on the exchange.

99.   The method of claim 98 wherein the securities within the portfolio satisfy price/earnings ratio criteria.

100.   A product comprising:

a unit investment trust having a portfolio comprising of securities that are within a substantially similar industry and satisfying market capitalization, the securities within the portfolio being weighted and the portfolio being changeable in response to a change in the identified group;

a plurality of outstanding shares listed and tradable on an exchange at a price related to the price of the securities within the portfolio; and

an electronic system that displays in real time the price that the outstanding shares were traded on the exchange.

101.   The product of claim 100 wherein the securities within the portfolio satisfy price/earnings ratio criteria.--

REMARKS

This Preliminary Amendment is being submitted in connection with a continuation Application. Independent Claim 53 has been retained for purposes of this filing. Claims 90-101 have been added. No new matter has been added by the above amendments.

Applicants enclose with this Preliminary Amendment a fee calculations sheet along with a check for the amount due. The Commissioner is hereby authorized to charge payment of any deficiency in these fees to Deposit Account No. 23-0280. A duplicate copy of this sheet is enclosed for that purpose.

In accordance with 37 C.F.R. 1.121, Applicants attach hereto one (1) sheet containing those mark-ups corresponding to the claim 53 amendments.

It is submitted that the currently pending claims are in condition for allowance. Should the Examiner have any issues or concerns, the undersigned respectfully requests a telephonic or personal interview.

Respectfully submitted,

Dated: 4/20/01

By: _____

Edward L. Bishop, Registration No. 39,110
WALLENSTEIN & WAGNER, LTD.
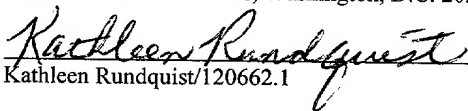311 South Wacker Drive, 53rd Floor
Chicago, Illinois 60606-6630
312.554.3300
Attorney for Applicant

ATTACHMENT A

53.   (Amended) A method comprising the steps of:

identifying [a group of] securities <u>within a substantially similar industry</u>;

separating the [group of] securities into a <u>group satisfying market capitalization criteria</u> [sector comprising a subset of the group of securities within a substantially similar industry];

creating a[n open end fund] <u>unit investment trust</u> having a number of outstanding shares and [comprising of the] <u>a portfolio of</u> securities within the <u>group</u> [sector;

changing the securities comprising the sector];

<u>providing a weighting of the securities comprising the portfolio;</u>

changing the securities comprising the <u>portfolio</u> [fund] in response to <u>a change in the identified securities</u> [the changing of the securities comprising the sector];

trading the outstanding shares [of the fund] on an exchange at a real time determined price related to the securities comprising the <u>portfolio</u> [sector]; and

outputting an indication of the real time determined price in a humanly readable format.

26962   PATENT

PATENT TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Continuation Patent Application Of:)
Kenneth Kiron and Kevin S. Bander   )
) Group Art Unit: 2761
Application No.: 09/579,801   )
)
Confirmation No.: 8044   )
)
Filed: May 26, 2000   )
)
For: Open End Mutual Fund Securitization Process)

Box Patent Application
Fee
Commissioner For Patents
Washington, D.C. 20231

SECOND PRELIMINARY AMENDMENT

Dear Sir:

Before examination, please amend the instant Application as follows.

In the Claims:

Please cancel Claims 8, 52 and 54-74 without prejudice.

Please replace claim 53 with the following corresponding amended claim:

53.   (Amended) A method comprising the steps of:

identifying a group of securities;

separating the group of securities into a sector comprising a subset of the group of securities within a substantially similar industry;

creating an open end fund having a number of outstanding shares and comprising of the securities within the sector;

changing the securities comprising the sector;

changing the securities comprising the fund in response to the changing of the securities comprising the sector;

trading the outstanding shares of the fund on an exchange at a real time determined price related to the securities comprising the sector; and

outputting an indication of the real time determined price in a humanly readable format.

Please add the following claims:

-- 75. The method of claim 53 further comprising the step of identifying a universe of securities registered within a country and including said identified group of securities and other securities.

76. The method of claim 53 further comprising the step of listing the outstanding shares on an exchange.

77. The method of claim 53 further comprising the step of listing on an exchange a derivative having a price related to the real time determined price.

78. The method of claim 53 further comprising the step of calculating overall positions of shareholders of the outstanding shares.

79. The method of claim 53 further comprising the step of electronically trading the outstanding shares.

80. A method comprising the steps of:

listing outstanding shares of an open end fund having a portfolio comprising of securities that are within a substantially similar industry and a subset of an identified group, the securities within the portfolio being weighted and the portfolio being changeable in response to a change in the identified group;

providing an exchange for trading the outstanding shares at a price related to the price of the securities within the portfolio; and

displaying in real time the price that the outstanding shares were traded on the exchange.

81. The method of claim 80 further comprising the step of identifying a universe of securities registered within a country and including said identified group and other securities.

82. The method of claim 80 further comprising the step of listing a derivative having a price related to the price of the outstanding shares.

83. The method of claim 80 further comprising the step of calculating overall positions of shareholders of the outstanding shares.

84. The method of claim 80 further comprising the step of electronically trading the outstanding shares.

85. An open end fund comprising:

a portfolio comprising of securities that are within a substantially similar industry and a subset of an identified group, the securities within the portfolio being weighted and the portfolio being changeable in response to a change in the identified group;

a plurality of outstanding shares of the open end fund listed and tradable on an exchange at a price related to the price of the securities within the portfolio; and

an electronic system that displays in real time the price that the outstanding shares were traded on the exchange.

86. The fund of claim 85 wherein said identified group is a subset of a universe of securities registered within a country.

87. A method comprising the steps of:

buying outstanding shares of an open end fund having a portfolio comprising of securities that are within a substantially similar industry and a subset of an identified group, the securities within the portfolio being weighted and the portfolio being changeable in response to a change in the identified group;

selling the outstanding shares of the fund on an exchange at a price related to the price of the securities within the portfolio; and

displaying in real time the price that the outstanding shares were traded on the exchange.

88. The method of claim 87 further comprising the step of identifying a universe of securities registered within a country and including said identified group and other securities.

89. A method comprising the steps of:

listing on an exchange outstanding shares of an open end fund having a portfolio comprising of securities that are within a substantially similar industry and a subset of an identified group, the portfolio being changeable in response to a change in the identified group, and the identified group being a subset of a universe of securities registered within a country;

providing an exchange for trading the outstanding shares of the fund at a price related to the price of the securities within the portfolio; and

displaying in real time the price that the outstanding shares were traded on the exchange.--

REMARKS

Independent Claim 53 has been retained for purposes of this filing. Claims 75-89 have been added. No new matter has been added by the above amendments.

Applicants specifically point out that the above amendments are NOT in response to a rejection of any or all claims by the Patent and Trademark Office. Claim 53 has been amended, and claims 75-89 added, to direct the application to specific types of Exchange Traded Funds and related activities. As such claims 8, 52, and 54-74 were cancelled in a good faith effort to expedite the prosecution of this application and allow the Assignee to enforce it rights as soon as possible.

Applicants enclose with this Preliminary Amendment a fee calculation sheet along with a check for the amount due. The Commissioner is hereby authorized to charge payment of any deficiency in these fees to Deposit Account No. 23-0280. A duplicate copy of this sheet is enclosed for that purpose.

In accordance with 37 C.F.R. 1.121, Applicants attach hereto one (1) sheet containing those mark-ups corresponding to the claim 53 amendments.

It is submitted that the currently pending claims are in condition for allowance. Should the Examiner having any issues or concerns, the undersigned respectfully requests a telephonic or personal interview.

Respectfully submitted,

Dated: 3/13/01

By: _____
Edward L. Bishop, Reg. No. 39,110
Wallenstein & Wagner, Ltd.
311 South Wacker Drive, 53rd Floor
Chicago, Illinois 60606-6630
312.554.3300
Attorney for Applicant

CERTIFICATE OF MAILING (37 C.F.R. § 1.8a)
I hereby certify that this correspondence is, on the date shown below, being deposited with the United States Postal Service as first class mail, postage prepaid, in an envelope addressed to: Box Patent Application, Fee, Commissioner For Patents, Washington, D.C. 20231 on

3/13/01

Kathleen Rundquist/117368.1

ATTACHMENT A

53.   (Amended) A method comprising the steps of:

identifying a group of securities;

separating the group of securities into a sector comprising a subset of the group of securities within a substantially similar industry;

creating an open end[ed mutual] fund having a number [class] of outstanding shares and [a portfolio] comprising of the securities within the sector [satisfying a predetermined criteria;

identifying a revised set of securities satisfying the predetermined criteria];

changing the securities comprising the sector;

changing the securities comprising the fund in response to the changing of the securities comprising the sector;

trading the outstanding shares of the fund on an exchange at a real time determined price related to the securities comprising the sector; and

outputting an indication of the real time determined price in a humanly readable format [portfolio in response to the identifying of the revised set of securities;

determining in real time the price of the financial product based on a user-defined method of weighting the securities comprising the portfolio].

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Continuation Patent Application Of:	) Prior Application:
Kenneth Kiron and Kevin S. Bander	) Application No. 09/140,868
	) Filed: August 27, 1998
Mailed: May 26, 2000	) Art Unit: 2761
	) Examiner: S. Tkacs
For: Open End Mutual Fund Securitization Process	) Present Application:
	) Examiner: Not Assigned
	) Art Unit: Not Assigned

Box Patent Application
Fee
Commissioner For Patents
Washington, D.C. 20231

PRELIMINARY AMENDMENT

Dear Sir:

The above-identified Application is a continuation of co-pending prior U.S. Application No. 09/140,868 filed August 27, 1998 which is a divisional of U.S. Application No. 08/542,431 filed October 12, 1995 now U.S. Patent No. 5,806,048. Before examination, please amend the instant Application as follows:

In the Specification:

On page 1, line 5 (of the Substitute Specification), please insert

-- This Application is a continuation of co-pending prior U.S. Application No. 09/140,868 filed August 27, 1998 which is a divisional of U.S. Application No. 08/542,431 filed October 12, 1995 now U.S. Patent No. 5,806,048.--.

In the Claims:

Please cancel Claims 19-51 and add the following Claims:

--   52.   An electronic data processing method for administering a financial product traded as a security comprising:

a)   creating a mutual fund comprising a plurality a selected portfolio of securities;

b)   receiving information on each of said one or more securities in the selected portfolio in an electronic data format;

c)   processing said information to determine in real time the price of the financial product on the basis of a user-defined method of weighting the selected portfolio of securities.

53.   A method comprising the steps of:

creating an open ended mutual fund having a class of shares and a portfolio comprising of securities satisfying a predetermined criteria;

identifying a revised set of securities satisfying the predetermined criteria;

changing the securities comprising the portfolio in response to the identifying of the revised set of securities;

determining in real time the price of the financial product based on a user-defined method of weighting the securities comprising the portfolio.

54.   The method of claim 53 further comprising the step of trading the outstanding class of shares on an exchange.

55.   The method of claim 53 further comprising the step of listing the outstanding class of shares on an exchange.

56.   The method of claim 53 further comprising the step of correlating the price of the outstanding class of shares to the price of the portfolio.

57.   The method of claim 53 further comprising the step of calculating overall positions of shareholders of the outstanding class of shares.

58.   The method of claim 53 further comprising the step of calculating a net asset value of the mutual fund.

59.   The method of claim 53 further comprising the steps of buying and selling the outstanding shares of the mutual fund at an agreed upon price.

60.   The method of claim 53 further comprising the steps of trading the outstanding shares of the mutual fund on an exchange and tracking the trades on the exchange.

61.   The method of claim 53 further comprising the step of electronically trading the outstanding shares of the mutual fund.

62.   The method of claim 53 further comprising the step of creating a derivative product related to the open ended mutual fund.

63.   The method of claim 53 further comprising the step of clearing trades of the open ended financial product.

64.   A method comprising the steps of:

creating an open ended mutual fund having a plurality of shares and comprising of a selected portfolio of securities;

trading the shares on a securities exchange;

determining a price of the mutual fund in real time based on information about the portfolio and a user-defined method of weighting;

providing an indication of the in real time determined price of the mutual fund;

designating a revised portfolio of securities; and,

changing the securities comprising the mutual fund in response to designating a revised portfolio of securities.

65.   The method of claim 64 further comprising the steps of listing the shares on an exchange and trading the shares on the exchange.

66.   The method of claim 64 further comprising the step of correlating the price of the shares to the price of the portfolio.

67.   The method of claim 64 further comprising the step of calculating overall positions of shareholders of the shares.

68.   The method of claim 64 further comprising the step of calculating a net asset value of the mutual fund.

69.   The method of claim 64 further comprising the steps of buying and selling the shares of the mutual fund product at a mutually agreed upon price.

70.   The method of claim 64 further comprising the steps of trading the outstanding shares of the mutual fund on an exchange and tracking the trades on the exchange.

71.   The method of claim 64 further comprising the step of electronically trading the outstanding shares of the mutual fund.

72.   The method of claim 64 further comprising the step of creating a derivative product related to the open ended mutual fund.

73.   The method of claim 64 further comprising the step of clearing trades of the open ended mutual fund.

74.   An electronic data processing method for calculating the estimated price of a real time open end financial product comprising the steps of:

identifying a group of securities;

retrieving data representative of a group of securities and the current estimated price of each security;

storing the value of the securities in a portfolio within a computer;

allocating said portfolio value to a fixed number of shares over a predetermined period of time comprised by a real time open ended financial product;

recalculating the portfolio value in response to changes in the market value of the portfolio value;

recalculating the estimated net asset value of the real time open end financial product in response to the change in the portfolio value;

outputting an indication of the in real time determined estimated net asset value of the real time open end financial product.

REMARKS

This Preliminary Amendment is being submitted in connection with a continuation Application. The above Claims do not introduce new matter. The Commissioner is hereby authorized to charge payment of any deficit in these fees to Deposit Account No. 23-0280. A duplicate copy of this sheet is enclosed for that purpose.

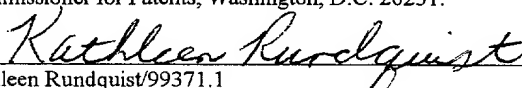Respectfully submitted,

Dated: 5/26/2000

By: _____
Edward L. Bishop, Registration No. 39,110
WALLENSTEIN & WAGNER, LTD.
311 South Wacker Drive, 53rd Floor
Chicago, Illinois 60606-6622
312.554.3300
Attorney for Applicant

CERTIFICATION UNDER 37 C.F.R. § 1.10
Express Mail Label No. EL619807784US
Date of Deposit: May 26, 2000
I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service, postage prepaid, under 37 C.F.R. § 1.10 on the date indicated above and is addressed to: BOX Patent Application, Fee, Commissioner for Patents, Washington, D.C. 20231.

_____
Kathleen Rundquist/99371.1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Continuation Patent Application Of:) Prior Application:
Kenneth Kiron and Kevin S. Bander   ) Application No. 09/579,801
) Filed: May 26, 2000
Mailed: April 20, 2001   ) Art Unit: 2761
) Examiner: Not Assigned
For: Open End Mutual Fund Securitization Process) Present Application:
) Examiner: Not Assigned
) Art Unit: Not Assigned

Box Patent Application
Fee
Commissioner For Patents
Washington, D.C. 20231

PRELIMINARY AMENDMENT

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The above-identified Application is a continuation of co-pending prior U.S. Application No. 09/579,801, which is a continuation of U.S. Application No. 09/140,868 filed August 27, 1998, now U.S. Patent No. 6,088,685, which is a continuation of U.S. Application No. 08/542,431 filed October 12, 1995 now U.S. Patent No. 5,806,048. Before examination, please amend the instant Application as follows:

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-- This Application is a divisional of co-pending U.S. Application No. 09/579,801 filed May 26, 2000, which is a continuation of U.S. Application No. 09/140,868 filed August 27, 1998, now U.S. Patent No. 6,088,685, which is a divisional of U.S. Application No. 08/542,431 filed October 12, 1995 now U.S. Patent No. 5,806,048.- -.

In the Claims:

Please cancel Claims 75-89 without prejudice.

Please replace claim 53 with the following corresponding amended claim:

53.   (Amended) A method comprising the steps of:

identifying securities within a substantially similar industry;

separating the securities into a group satisfying market capitalization criteria;

creating a unit investment trust having a number of outstanding shares and a portfolio of securities within the group;

providing a weighting of the securities comprising the portfolio;

changing the securities comprising the portfolio in response to a change in the identified securities;

trading the outstanding shares on an exchange at a real time determined price related to the securities comprising the portfolio; and

outputting an indication of the real time determined price in a humanly readable format.

Please add the following claims:

--90.   The method of claim 53 further comprising the step of listing the outstanding shares on an exchange.

91.   The method of claim 53 further comprising the step of listing on an exchange a derivative having a price related to the real time determined price.

92   The method of claim 53 further comprising the step of calculating overall positions of shareholders of the outstanding shares.

93.   The method of claim 53 further comprising the step of electronically trading the outstanding shares.

94.   The method of claim 53 wherein the group satisfies price/earnings ratio criteria.

95.   A method comprising the steps of:

listing outstanding shares representing ownership of a unit investment trust having a portfolio comprising of securities within a substantially similar industry and satisfying market capitalization criteria, the securities within the portfolio being weighted;

providing an exchange for trading the outstanding shares at a price related to the price of the securities within the portfolio; and

displaying in real time the price that the outstanding shares were traded on the exchange.

96.   The method of claim 95 further comprising the step of listing a derivative product on an exchange and having a price related to the price of the outstanding shares.

97.   The method of claim 95 further comprising the step of providing the weighting of the securities within the portfolio.

98.   A method comprising the steps of:

buying on an exchange outstanding shares representing ownership of a unit investment trust having a portfolio comprising of securities within a substantially similar industry and satisfying market capitalization criteria, the securities within the portfolio being weighted;

selling on the exchange the outstanding shares at a price related to the price of the securities within the portfolio; and

displaying in real time the price that the outstanding shares were traded on the exchange.

99.   The method of claim 98 wherein the securities within the portfolio satisfy price/earnings ratio criteria.

100.   A product comprising:

a unit investment trust having a portfolio comprising of securities that are within a substantially similar industry and satisfying market capitalization, the securities within the portfolio being weighted and the portfolio being changeable in response to a change in the identified group;

a plurality of outstanding shares listed and tradable on an exchange at a price related to the price of the securities within the portfolio; and

an electronic system that displays in real time the price that the outstanding shares were traded on the exchange.

101.   The product of claim 100 wherein the securities within the portfolio satisfy price/earnings ratio criteria.--

REMARKS

This Preliminary Amendment is being submitted in connection with a continuation Application. Independent Claim 53 has been retained for purposes of this filing. Claims 90-101 have been added. No new matter has been added by the above amendments.

Applicants enclose with this Preliminary Amendment a fee calculations sheet along with a check for the amount due. The Commissioner is hereby authorized to charge payment of any deficiency in these fees to Deposit Account No. 23-0280. A duplicate copy of this sheet is enclosed for that purpose.

In accordance with 37 C.F.R. 1.121, Applicants attach hereto one (1) sheet containing those mark-ups corresponding to the claim 53 amendments.

It is submitted that the currently pending claims are in condition for allowance. Should the

Examiner have any issues or concerns, the undersigned respectfully requests a telephonic or personal

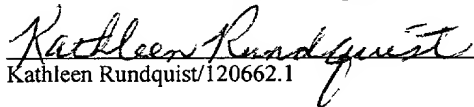interview.

Respectfully submitted,

Dated: 4/20/01

By: _____

Edward L. Bishop, Registration No. 39,110
WALLENSTEIN & WAGNER, LTD.
311 South Wacker Drive, 53rd Floor
Chicago, Illinois 60606-6630
312.554.3300
Attorney for Applicant

ATTACHMENT A

53. (Amended) A method comprising the steps of:

identifying [a group of] securities within a substantially similar industry;

separating the [group of] securities into a group satisfying market capitalization criteria [sector comprising a subset of the group of securities within a substantially similar industry];

creating a[n open end fund] unit investment trust having a number of outstanding shares and [comprising of the] a portfolio of securities within the group [sector;

changing the securities comprising the sector];

providing a weighting of the securities comprising the portfolio;

changing the securities comprising the portfolio [fund] in response to a change in the identified securities [the changing of the securities comprising the sector];

trading the outstanding shares [of the fund] on an exchange at a real time determined price related to the securities comprising the portfolio [sector]; and

outputting an indication of the real time determined price in a humanly readable format.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re U.S. Divisional Patent Application Of:)	
Kenneth Kiron and Kevin S. Bander)	
)	
Application No. 09/140,868)	Group Art Unit: 2761
)	
Filed: August 27, 1998)	Examiner S. Tkacs
)	
For: Open End Mutual Fund Securitization Process)	

Box Fee Amendment
Assistant Commissioner For Patents
Washington, D.C. 20231

RESPONSE

Dear Sir:

The following Amendments and Remarks are submitted in response to the Office Action

dated March 2, 1999. Please amend the Application as follows:

In the Claims:

Please cancel Claims 1, 3-7 and 9-18.

Please amend Claim 8 as follows:

8.   (Amended) An electronic data processing method for administering a financial product

having a known number of shares over a predetermined period of time, which financial product

is traded as a security the price of which is determined on the basis of information about one or

more securities, comprising:

      a)   directing a computer processor to select from said one or more securities a

            selected portfolio of securities <u>based upon a predefined criteria</u> [the risk/return

            performance of which over a predetermined period of time is superior to a

            predefined benchmark performance];

      b)   receiving information on each of said one or more securities <u>in the selected</u>

            <u>portfolio</u> in an electronic data format;

      c)   storing at least the received information on each security in the selected portfolio

            in a computer memory;

    d)   electronically processing said stored information to determine <u>in real time</u> the price of the financial product <u>on the basis of a user-defined method of weighting the selected portfolio of securities</u>; and

    e)   outputting an indication of the determined <u>in real time</u> price of the financial product in humanly readable format.

Please add Claims 19-51 as follows:

--19.   A method comprising the steps of:

identifying a group of securities;

separating the group of securities into at least one subset of securities satisfying a predetermined criteria;

creating an open ended financial product having a fixed number of outstanding shares over a predetermined period of time and a portfolio comprising of securities within the subset of securities;

identifying from the group of securities a revised subset of securities satisfying the predetermined criteria;

changing the securities comprising the portfolio in response to the identifying of the revised subset of securities;

determining in real time the price of the financial product based on a user-defined method of weighting the securities comprising the portfolio; and

outputting an indication of the real time determined price of the financial product in a humanly readable format.

20.   The method of claim 19 further comprising the step of trading the outstanding shares on an exchange.

21.   The method of claim 19 further comprising the step of listing the outstanding shares on an exchange.

22.   The method of claim 19 further comprising the step of correlating the price of the outstanding shares to the price of the portfolio.

23.   The method of claim 19 further comprising the step of calculating overall positions of shareholders of the outstanding shares.

24.   The method of claim 19 further comprising the step of calculating a net asset value of the financial product.

25.   The method of claim 19 further comprising the steps of buying and selling the outstanding shares of financial product at a mutually agreed upon price.

26.   The method of claim 19 further comprising the steps of trading the outstanding shares of the financial product on an exchange and tracking the trades on the exchange.

27.   The method of claim 19 further comprising the step of electronically trading the outstanding shares of the financial product.

28.   The method of claim 19 further comprising the step of creating a derivative product related to the open ended financial product.

29.   The method of claim 19 further comprising the step of clearing trades of the open ended financial product.

30.   A method comprising the steps of:

identifying a group of securities;

separating the group of securities into a sector comprising a subset of the group of securities and satisfying a specific criteria;

creating an open ended financial product having a fixed number of outstanding shares over a predetermined period of time and comprising of the securities within the sector;

changing the securities comprising the sector;

changing the securities comprising the financial product in response to the changing of the securities comprising the sector;

determining in real time the price of the financial product on the basis of a user-defined method of weighting the securities comprising the sector; and,

outputting an indication of the real time determined price of the financial product in a humanly readable format.

31. The method of claim 30 further comprising the step of trading outstanding shares on an exchange.

32. The method of claim 30 further comprising the step of listing the outstanding shares on an exchange.

33. The method of claim 30 further comprising the step of correlating the price of the outstanding shares to the price of the securities comprising the sector.

34. The method of claim 30 further comprising the step of calculating overall positions of shareholders of the outstanding shares.

35. The method of claim 30 further comprising the step of calculating a net asset value of the financial product.

36. The method of claim 30 further comprising the steps of buying and selling the outstanding shares of the financial product at a mutually agreed upon price.

37. The method of claim 30 further comprising the steps of trading the outstanding shares of the financial product on an exchange and tracking the trades on the exchange.

38. The method of claim 30 further comprising the step of electronically trading the outstanding shares of the financial product.

39. The method of claim 30 further comprising the step of creating a derivative product related to the open ended financial product.

40. The method of claim 30 further comprising the step of clearing trades of the open ended financial product.

41. A method comprising the steps of:

designating from a plurality of securities a selected portfolio of securities;

creating an open ended financial product having a fixed number of shares over a predetermined period of time and comprising of the securities within the selected portfolio of securities;

trading the shares on a securities exchange;

determining a price of the financial product in real time based on information about the portfolio and a user-defined method of weighting;

providing an indication of the in real time determined price of the financial product;

designating a revised portfolio of securities; and,

changing the securities comprising the financial product in response to designating a revised portfolio of securities.

42. The method of claim 41 further comprising the steps of listing the shares on an exchange and trading the shares on the exchange.

43. The method of claim 41 further comprising the step of correlating the price of the shares to the price of the portfolio.

44. The method of claim 41 further comprising the step of calculating overall positions of shareholders of the shares.

45. The method of claim 41 further comprising the step of calculating a net asset value of the financial product.

46. The method of claim 41 further comprising the steps of buying and selling the shares of financial product at a mutually agreed upon price.

47. The method of claim 41 further comprising the steps of trading the outstanding shares of the financial product on an exchange and tracking the trades on the exchange.

48. The method of claim 41 further comprising the step of electronically trading the outstanding shares of the financial product.

49. The method of claim 41 further comprising the step of creating a derivative product related to the open ended financial product.

50. The method of claim 41 further comprising the step of clearing trades of the open ended financial product.

51. An electronic data processing method for executing the purchase or sale of a real time open end financial product, comprising the steps of:

    a)   receiving data in an electronic format representative of particular characteristics of a plurality of target financial products and the current estimated price of each target product;

    b)   storing the data received in a computer memory;

c)   electronically generating a determined price of the open end financial product in real time in response to the data;

d)   electronically outputting the determined price of the financial product; and,

e)   electronically executing the transaction of a purchase or sale of the financial product. --

REMARKS

By the above amendments, Claim 8 has been amended, Claims 1, 3-7 and 9-18 have been canceled, and Claims 19-51 have been added. Claim 2 was canceled previously. Accordingly, Claims 8 and 19-51 are pending. The above amendments do not add new matter.

Claims 1, 3-7 and 9-18 have been canceled without prejudice and in a good faith effort to expedite prosecution of claims having particular interest to the Applicants.

Claim 8 stands rejected under the judicially created doctrine of obviousness-type double patenting and under 35 U.S.C. 103(a) as being unpatentable over Gitter in view of Macro*World and Official Notice taken by the Examiner. Attached is a terminal disclaimer to overcome the obviousness-type double patenting rejection. Applicants believe the rejection of Claim 8 under 35 U.S.C. 103(a) is improper because the prior art of record fails to teach or suggest all of the limitations of the Claim as originally submitted. However, in a good faith effort to pass Claim 8 to issue, Applicants have added additional limitations not taught or suggested by the prior art of record. For example, the prior art fails to teach or suggest determining in real time the price of the claimed financial product on the basis of a user-defined method of weighting the selected portfolio of securities. Accordingly, Applicants respectfully request that Claim 8 be passed to issue.

Likewise, independent Claims 19, 30, 41 and 51 are allowable over the prior art of record because, _inter alia_, there is no teaching or suggestion for determining in real time the price of the claimed financial product on the basis of a user-defined method of weighting securities. In addition, regarding Claims 19, 30 and 41, the prior art fails to teach or suggest creating an open ended financial product having a fixed number of outstanding shares over a predetermined period of time and comprising of securities that are changed from time to time.

Dependent Claims 20-29, 31-40, and 42-50 also are allowable over the prior art of record because they include the limitations of either independent Claim 19, 30 or 41. The prior art of record fails to teach or suggest: trading the outstanding shares of the claimed financial products on an exchange as set forth by dependent claims 20 and 31; listing the outstanding shares of the claimed financial products on an exchange as set forth by dependent claims 21, 32 and 42; correlating the price of the outstanding shares of the claimed financial products to the price of the underlying securities as set forth by dependent claims 22, 33 and 43; calculating overall positions of shareholders of claimed financial products as set forth by dependent claims 23, 34 and 44; calculating a net asset value of the claimed financial products as set forth by claims 24, 35 and 45; buying and selling shares of the claimed financial products as set forth by claims 25, 36 and 46; trading and tracking shares of the claimed financial product on an exchange as set forth by claims 26, 37 and 47; electronically trading shares of the financial product as set forth by dependent claims 27, 38 and 48; creating a derivative product related to the open ended financial product as set forth by claims 28, 39 and 49; and clearing trades of the open ended financial product as set forth by claims 29, 40 and 50.

In considering passing the Application to issue, Applicants request the Examiner consider the Declaration of Kenneth Kiron, dated February 3, 1998, and submitted in connection with the parent application for fully complying with the duty of disclosure. After receiving the Declaration during prosecution of the parent application, the Examiner required the insertion of the limitation "in real time" "to more clearly distinguish the claimed invention from the invention disclosed to others as evidenced by the Declaration by Applicant." See, Interview Summary Record, dated May 12, 1998, in parent application.

Applicants acknowledge receipt of Notice of Draftsperson's Patent Drawing Review, PTO-948. Applicants will submit corrected drawings upon an indication of allowable subject matter.

By the above amendments, five (5) independent claims and thirty-four total claims are pending. Applicants initially paid for four (4) independent claims and a total of twenty claims.

Accordingly, Applicant encloses fees for the additional one (1) independent claim, fourteen (14)

total claims, and an extension of three months to response to the Office Action of March 2, 1999.

The Commissioner is hereby authorized to charge payment of any deficit in these fees to Deposit

Account No. 23-0280. A duplicate copy of this sheet is enclosed for that purpose.

For the foregoing reasons, Applicants request reconsideration of the Application and

allowance of all Claims. Should the Examiner have any concerns, the undersigned respectfully

requests a telephonic or personal interview.

Respectfully submitted,
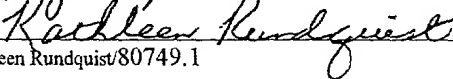
Dated: 9/2/99   By: _____

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CERTIFICATE OF MAILING (37 C.F.R. § 1.8a)
I hereby certify that this correspondence is, on the date shown below, being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Box Fee Amendment, Assistant Commissioner For Patents, Washington, D.C. 20231 on

Sept. 2, 1999

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Kathleen Rundquist/80749.1